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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,134	04/06/2006	Jan Rytter	NKTR-46756	9300
116	7590	07/19/2011	EXAMINER	
PEARNE & GORDON LLP			HOOK, JAMES F	
1801 EAST 9TH STREET				
SUITE 1200			ART UNIT	PAPER NUMBER
CLEVELAND, OH 44114-3108			3754	
			MAIL DATE	DELIVERY MODE
			07/19/2011	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action Before the Filing of an Appeal Brief</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/575,134	RYTTER, JAN	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 July 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires 3 months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a)  They raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  They raise the issue of new matter (see NOTE below);
  - (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13.  Other: \_\_\_\_\_.

/James F. Hook/  
Primary Examiner, Art Unit 3754

Continuation of 11. does NOT place the application in condition for allowance because: With respect to the new matter rejection such will be dropped in any further office actions as the arguments presented overcome this rejection. With respect to the rejection under 103 (a) directed at Glejbol in view of Greco, DeGanahl, and Braad, the base reference used in this rejection is Glejbol and such teaches permeability of the outer layers, Greco is only used as a modifying reference to teach it is known to form reinforcing bundles in twisted form and melting them together to insure the reinforcement provides the necessary reinforcement of the tube. Therefore, Greco is not used to modify the outer layers and it does not prevent such from teaching modification to the reinforcing layer, where such would not change the structure of the outer layers in any way in the Glejbol reference when modifying only the reinforcing layer only, and would therefore not teach away from the combination. With respect to the KSR decision, substituting a known equivalent reinforcement layer for another when the base reference teaches using any known reinforcement and the modifying reference teaches known reinforcing layers, then such would be an obvious substitution of one known reinforcement type for another, where Greco teaches improving the hose structure by improving the reinforcing layers by forming it of twisted fibers and melting one to another , and therefore one would expect the same success as Greco to achieve a reinforced hoseto improve kink resistance as taught by Greco. With respect to the argument that Greco would be destroyed by combination with Glejbol such is immaterial in that Greco is not being modified by Glejbol therefore the combination of limitations of Greco not related to the modifying structure are immaterial and especially when Greco is only used as a modifying reference and not as a base reference. When modifying the reinforcing layer only as Greco is used it is immaterial what the outer layer is made of in Greco when Glejbol teaches the outer layer structure being permeable, and such would not prevent the modification of the reinforcing layer of Glejbol as taught by Greco.